SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7645
WWW.SWIDLAW.COM

PATRICK J. DONOVAN
DIRECT DIAL: (202) 424-7857
FAX: (202) 424-7643
PJDONOVAN@SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
TEL. (212) 973-0111
FAX (212) 891-9598

December 11, 2003

Via ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

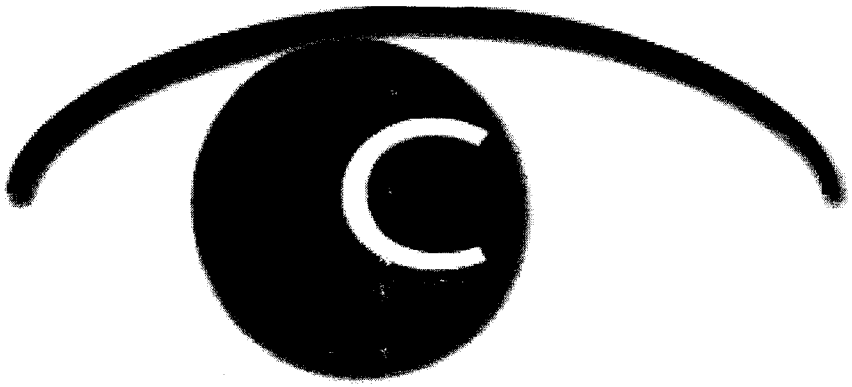
Ex Parte
CC Docket No. 01-338

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on December 10, 2003, Julia O. Strow, Vice President - Regulatory and Industry Relations, Cbeyond Communications, LLC, and the undersigned met with Matthew Brill, Office of Commissioner Kathleen Abernathy; Dan Gonzalez, Office of Commissioner Kevn J. Martin; Jessica Rosenworcel, Office of the Commissioner Michael Copps; and William Maher, Jeffrey Carlisle, Rob Tanner, and Marcus Maher, Wireline Competition Bureau, concerning issues in the above-captioned proceeding. Cbeyond presented the views set forth in the attached document which was provided at the meetings. Jonathan Askin, General Counsel, Association for Local Telecommunications services also attended the meetings.

Sincerely,

Patrick J. Donovan



CBEYOND COMMUNICATIONS

Julia Strow – VP Regulatory

December 10, 2003

BellSouth Petition for Reconsideration Should be Denied

- **Significant Impairment Exists**
  - CLECs are not similarly situated to the ILEC for purposes of deployment
  - Operational and economic barriers still exist
  - Cable modem, satellite and other wireless options are not sufficient or viable alternatives for small and medium businesses
  - If viable and real alternatives exist, the FCC's impairment test for high capacity loops will adequately address loop unbundling relief

- **Extending FTTH relief to FTTC will not achieve the intended investment result**
  - Changes proposed will not result in additional investment – economics, demand and technology are the true drivers in BOC decision making
  - FTTC is already being deployed, no further incentive is necessary or required
  - FTTH is bright line without the inherent ambiguity of FTTC
  - Ambiguity created will be exploited to unlawfully deny CLEC access

- **CLEC access to DS1, DS3 and dark fiber loops for small business market must be preserved regardless of transmission medium**

The Difference

The Key Differentiation of VoIP Lies in Four Main Facts

- **Voice Content is Carried in IP**
  One Network for the Carrier; Services can be carried on any IP Network which extends the reach of a service anywhere in the world.

- **Separation of Signaling and Content.**
  Carriers can manage calls over a broad geography with a centralized call manager; This means content-switching equipment needs little intelligence and large Central Offices are not necessary.

- **Open Standards**
  Equipment can be made by many different companies to reduce cost. The rate of innovation is not constrained by a few monopoly providers

- **Integration with Existing Web Services**
  VoIP Protocols are based on Internet Protocols. This means that web services and voice services can be seamlessly integrated by programmers that understand common programming languages.

VoIP is Transforming the Telecom Landscape

Voice over Internet Protocol (VoIP) Models

VOIP Application over the Public Internet

- Low to moderate quality voice services are provided over "best efforts" broadband Internet connections
- Primarily consumer focused
- Initial focus was "cheap" domestic and international long distance
- PC-to-PC, PC-to-Phone and Phone-to-Phone conversations
- Service Providers typically do not sell or manage the Internet connection
- Relatively low barrier to entry

Examples:

- deltathree, dialpad, Net2Phone, Vonage and many others

VoIP Customer Premise Equipment

- LAN and PBX vendors install IP-PBXs and IP Phones on customer's premise
- Early adopters are large and medium-sized enterprises
- Site-to-site connections are typically VoIP, however, connections to the PSTN are made via legacy, TDM voice trunks
- Significant opportunity to connect IP-PBX equipment to VoIP integrated access networks like Cbeyond's

Examples:

- 3Com, Alcatel, Avaya, Cisco, Mitel, NEC, Nortel, Shoreline, Siemens, and many others

VoIP Local Phone Company

- Cbeyond installs an Integrated Access Device (IAD) on the customer premise and connects it to a broadband, T1 connection
- Voice calls travel over a dedicated IP connection and never travel over the public Internet; allowing Cbeyond to manage the Quality of Service to 99.999%
- IAD connects with the customer's existing phone and LAN systems to provide a complete package of high quality local, LD and high-speed Internet

CBEYOND COMMUNICATIONS™